

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Los Angeles County Metropolitan Transportation Authority for an order authorizing the construction of a two-track grade separated crossing for the Eastside Corridor Light Rail Transit Line above and across Santa Fe Avenue and above and across Meyers Street on the existing First street Bridge to be widened in the City of Los Angeles.

Application 03-09-002
(Filed September 2, 2003)

O P I N I O N**Summary**

This decision grants Los Angeles County Metropolitan Transportation Authority's (MTA) request for authority to construct, as part of the Eastside Corridor Light Rail Transit Line (ELRL) project, two proposed grade-separated highway-rail crossings above and across Santa Fe Avenue and Myers Street on the existing First Street Bridge in City of Los Angeles (City), Los Angeles County.

Discussion

MTA is the primary provider of transit-related services in Los Angeles County. The State Legislature created MTA pursuant to Public Utilities Code Section 130050.2. MTA funds and operates an extensive transit network, including the Pasadena Gold Line, in Los Angeles County.

MTA is authorized to utilize and cross public roadways and public right-of-ways, to construct and maintain a light rail transit line together with the

appurtenances, and to relocate other facilities pursuant to Public Utilities Code Sections 30631, 30633, and 130231.

MTA proposes to construct two ELRL grade-separated highway-rail crossings above and across Santa Fe Avenue and Myers Street on the existing First Street Bridge in the vicinity of the Los Angeles River. MTA also proposes to widen the existing First Street Bridge to accommodate two ELRL tracks along the center of First Street. Following widening of the First Street Bridge, MTA's contractor will construct ELRL tracks that MTA will operate and maintain at its cost. Maintenance of MTA's tracks and facilities will be pursuant to the provisions of the Master Cooperative Agreement between MTA and City.

MTA's ELRL will be an eastward extension of the Pasadena Gold Line and will be six miles in length. The ELRL will begin at the end of the Pasadena Gold Line track at Union Station. At the site of the proposed Santa Fe Avenue and Myers Street grade-separated highway-rail crossings, the ELRL will run easterly along the center of First Street for approximately 0.8 miles across the Los Angeles River to the west portal of a tunnel beneath Boyle Heights. The ELRL will have double track, overhead catenary power distribution, and will operate electrically powered articulated cars 90 feet in length. Furthermore, trains will operate at a speed no greater than the maximum automotive speed along the First Street Bridge with a maximum speed of 35 miles per hour. MTA will utilize an over speed protection system in the event a train operator exceeds the 35 miles per hour speed and the operator does not respond to the over speed indication. In such instances, a train will stop automatically.

Commission General Order (GO) 143-B provides for the operation of light rail transit lines. MTA proposes to adopt ELRL operations that will meet the requirements of GO 143-B, Section 9.04(b)(4) to construct the proposed grade-

separated highway-rail crossings above and across Santa Fe Avenue and Myers Street.

MTA is the lead agency for this project under California Environmental Quality Act of 1970 (CEQA), as amended in 1982 and as stated in Public Resources (PR) Code Section 21000 et seq. MTA prepared a Final Supplemental Environmental Impact Statement/Final Subsequent Environmental Impact Report (Final SEIS/SEIR), assigned State Clearinghouse (SCH) Number 1999081061, for the project on January 4, 2002. On February 28, 2002, the MTA Board of Directors approved the project and adopted the Final SEIS/SEIR. On March 1, 2002, in compliance with PR Code Sections 21108 and 21152, MTA filed a Notice of Determination (NOD) with the State Clearinghouse and the Los Angeles County Clerk. The NOD is attached to Appendix A of the order. The NOD concluded that the project will have a significant effect on the environment and mitigation measures were made a condition for project approval. Findings were made pursuant to the provisions of CEQA, and MTA adopted a “Statement of Overriding Considerations” (SOC) for this project.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency’s Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The specific activities that a responsible agency must conduct are contained in CEQA Guideline Section 15096.

The Commission has reviewed the lead agency’s environmental documents, and we find them adequate for our decision-making purposes.

These documents include the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061), prepared jointly by the United States Department of Transportation – Federal Transit Administration and MTA. In considering this document, we note that the Final SEIS/SEIR developed and evaluated a range of alternatives as well as a “No-Build Alternative.” The Final SEIS/SEIR included an analysis of potential environmental impacts related to the project and alternatives related to, among other items, transportation, land use and development, land acquisition/displacement and relocation, air quality, noise and vibration, and safety. Safety, transportation and noise are within the scope of the Commission’s permitting process. The Final SEIS/SEIR (Volume I) contains statements pertaining to the affected environment, methodology for impact evaluation, impacts, and mitigation. MTA identified environmental impacts related to safety, transportation, and noise.

The “Findings Of Fact And Statement Of Overriding Considerations,” (FFSOC) contains statements pertaining to impacts, mitigation measures, and findings for each impact. The FFSOC categorized these impacts as “Significant Effects Determined to be Mitigated to a Less Than Significant Level,” “Significant Effects That Are Not Mitigated to a Less Than Significant Level,” and “Effects Determined Not to be Significant or Less Than Significant.” Included in the FFSOC are the SOC and “Mitigation Monitoring Plan” (MMP). The MTA Board of Directors adopted the SOC with respect to significant and unavoidable adverse environmental impacts identified in the Final SEIS/SEIR and FFSOC, including those impacts related to safety, transportation, and noise.

The MTA Board of Directors found that the benefits of the proposed project outweigh the unavoidable significant adverse environmental impacts. The Board of Directors determined that each of the separate benefits identified in

the SOC, in itself and independent of other project benefits, is a basis for overriding all unavoidable impacts identified in the Final SEIS/SEIR and noted in the Board of Directors' findings.

In reviewing the Final SEIS/SEIR and MMP, we find that with respect to issues within the scope of our permitting process, MTA, where possible, adopted feasible mitigation measures to lessen the significant environmental impacts to less-than-significant levels. We will adopt MTA's findings and mitigations for purposes of our approval.

With respect the SOC, we find that the Board of Directors enumerated several significant benefits associated with the proposed project which appeared, on balance, to reasonably justify approval of the project despite certain significant and unavoidable impacts. Therefore, we accept and adopt the findings of the SOC for purposes of our approval.

The Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section (RCES) has inspected the sites of the two proposed grade-separated highway-rail crossings above and across Santa Fe Avenue and Myers Street. After reviewing the need for and the safety of the proposed grade-separated highway-rail crossings, RCES recommends that the Commission grant MTA's requests.

The Application is in compliance with the Commission's filing requirements, including Rule 40 of Rules of Practice and Procedure, which relates to the construction of railroad tracks across public highways. A site map and detailed drawings of the two proposed grade-separated highway-rail crossings are shown in Appendix B attached to the order.

In Resolution ALJ 176-3118, dated September 4, 2003, and published in the Commission Daily Calendar on September 5, 2003, the Commission preliminarily

categorized Application (A.) 03-09-002 as ratesetting, and preliminarily determined that hearings were not necessary. Since no protests were filed, these preliminary determinations remain correct. The Commission's Consumer Protection and Safety Division recommends that the Commission grant this Application. Given these developments, it is not necessary to revise the preliminary determinations made in Resolution ALJ 176-3118.

This Application is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), we waive the otherwise applicable 30-day period for public review and comment.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. The Commission published Notice of A.03-09-002 in the Commission Daily Calendar on September 3, 2003. There are no unresolved matters or protests; a public hearing is not necessary.
2. MTA requests authority, under Public Utilities Code Sections 1201-1205, to construct, as part of MTA's ELRL project, the proposed grade-separated highway-rail crossings above and across Santa Fe Avenue and Myers Street on the existing First Street Bridge in Los Angeles, Los Angeles County. MTA is to widen the existing First Street Bridge to accommodate two ELRL tracks.
3. Public convenience, necessity, and safety require construction of the two proposed grade-separated highway-rail crossings above and across Santa Fe Avenue and Myers Street.
4. MTA is the lead agency for this project under CEQA, as amended.

5. In approving the project on February 28, 2002, the MTA Board of Directors adopted the Final SEIS/SEIR for the Los Angeles Eastside Corridor (SCH No. 1999081061) and found that “The project will have a significant effect on the environment.” Mitigation measures were made a condition of the approval of the project. Findings were made pursuant to the provisions of CEQA. An SOC was adopted for this project.

6. The Commission is a responsible agency for this project and has reviewed and considered the lead agency's Final SEIS/SEIR, NOD, and the SOC. We find these documents to be adequate for our decision-making purposes.

7. Safety, transportation and noise are within the scope of the Commission’s permitting process.

8. For the approved project, the lead agency identified environmental impacts related to safety, transportation and noise.

Conclusions of Law

1. With respect to significant impacts from safety, transportation and noise, we find that the lead agency adopted feasible mitigation measures where possible to substantially lessen the environmental impacts to a less-than-significant level. We adopt these mitigation measures for purposes of our approval. With respect to the significant and unavoidable environmental impacts, we find that MTA enumerated several significant benefits to justify project approval. Therefore, we also adopt the SOC for purposes of our approval.

2. The Application should be granted as set forth in the following order.

O R D E R**IT IS ORDERED** that:

1. The Commission authorizes Los Angeles County Metropolitan Transportation Authority (MTA) to construct the proposed grade-separated highway-rail crossings for MTA's Eastside Corridor Light Rail Transit Line tracks, above and across Santa Fe Avenue and Myers Street on the existing First Street Bridge, in the City of Los Angeles (City), Los Angeles County, at the locations and substantially as described and shown by plans attached to the Application and Appendix B attached to this order, identified as CPUC Crossing Nos. 84E-0.93-B (Santa Fe Avenue) and 84E-1.14-B (Myers Street).
2. Clearances and walkways shall conform to all applicable Commission General Orders.
3. MTA and City (parties) shall bear construction and maintenance costs in accordance with an agreement into which the parties have entered. Should the parties fail to agree, the Commission shall apportion the costs of construction and maintenance by further order.
4. Within 30 days after completion of the work under this order, MTA shall notify the Commission's Consumer Protection and Safety Division – Rail Crossings Engineering Section in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations), of the completion of the authorized work.
5. This authorization shall expire if not exercised within three years unless the Commission extends the time or if the parties do not comply with the above conditions. The Commission may revoke or modify authorization if public convenience, necessity or safety so require.

6. The Commission grants the Application as set forth above.

7. Application 03-09-002 is closed.

This order becomes effective 30 days from today.

Dated _____, at San Francisco, California.

A P P E N D I X A
ENVIRONMENTAL DOCUMENTS

FILED

MAR 01 2002

NOTICE OF DETERMINATION

CONNIE B. MCCORMACK, COUNTY CLERK

Connie B. McCormack
DEPUTY

To: X Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

From: Los Angeles County Metropolitan
Transportation Authority
One Gateway Plaza
Mail Stop 99-22-2
Los Angeles, CA 90012-2952

X County Clerk
Los Angeles, California
12400 Imperial Highway
Norwalk, CA 90650

Subject: Filing of Notice of Determination in compliance with Sections 21108 and 21152 of the Public Resources Code.

Project Title: Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B

State Clearinghouse Number: 1999081061

Lead Agency Contact Person: Ray Sosa

Telephone: (213) 922-3098

Project Location: City of Los Angeles; Los Angeles County, California

Project Description:

The Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B is a six mile, nine station project which will be an extension of the under construction Pasadena Metro Gold Line. The project extends from Union Station to Atlantic Boulevard in East Los Angeles, via Alameda Street, First Street, Indiana Street, Third Street, and Pomona Boulevard.

This is to advise that the Los Angeles County Metropolitan Transportation Authority has approved the above described project on February 28, 2002 and has made the following determinations regarding the above described project.

1. This project X (will) (will not) have a significant effect on the environment in that:
 - a. Temporary impacts during construction will occur with regards to parking losses, traffic disruption, and sidewalk closures. MTA has identified mitigation measures to address these impacts, however, it is possible that some impacts during construction cannot be completely mitigated.
 - b. Tunneling during construction of subway segment or pile driving for the aerial segment may result in destruction of some fossils. MTA will make every effort to ensure that fossil recovery is maximized.
 - c. Despite mitigation measures, temporary air quality, noise and vibration impacts are possible during construction. Temporary visual impacts may also occur in the vicinity of Chavez/Soto construction staging area if screening materials cannot prevent impacts on multi-story land uses.
 - d. Ten traffic intersections will be significantly impacted and cannot be fully mitigated.
 - e. Catenary system on the 1st Street Bridge will add to visual overhead clutter. However, no historical features will be adversely affected.
 - f. Exterior noise levels and moderate sound impacts adjacent to special trackwork may occur if mitigation measures are not sufficient to eliminate impact. The MTA is committed to ensuring noise impacts are minimized.

NOTICE WAS POSTED
MAR 01 2002

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ISTRAR-RECORDER/COUNTY CLERK

Los Angeles Eastside Corridor Light Rail Transit Build Alternative Option B

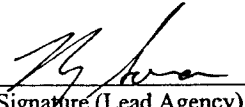
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- g. The project will require property acquisition and relocation of residents and businesses. There is the possibility that some residents and businesses may have to be relocated outside of the corridor.
2. X An Environmental Impact Report was prepared for this project pursuant to the provision of CEQA.
___ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures X (were) ___ (were not) made a condition of the approval of the project.
4. Findings X (were) ___ (were not) made pursuant to the provisions of CEQA
5. A Statement of Overriding Considerations X (was) ___ (was not) adopted for this project.

This is to certify that the final EIR with comments and responses and record of project approval is available to the General Public at:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Mail Stop 99-22-02
Los Angeles, CA 90012
Contact: Ray Sosa

Date Received for Filing and Posting at OPR:

 3/1/02
Signature (Lead Agency)


Title

NOTICE OF DETERMINATION

To: X Office of Planning and Research **From:** Los Angeles County Metropolitan
1400 Tenth Street, Room 121 Transportation Authority
Sacramento, CA 95814 One Gateway Plaza
Mail Stop 99-22-2
Los Angeles, CA 90012-2952

X County Clerk
Los Angeles, California
12400 Imperial Highway
Norwalk, CA 90650

Subject: Filing of Notice of Determination in compliance with Sections 21108 and 21152 of the Public Resources Code.

RECEIVED
MAR - 4 2002
STATE CLEARING HOUSE

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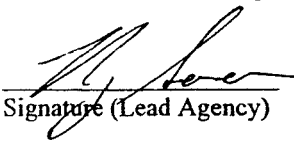
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Mail Stop 99-22-02
Los Angeles, CA 90012
Contact: Ray Sosa

Date Received for Filing and Posting at OPR:

 3/1/02
Signature (Lead Agency)


Title

APPENDIX B

PLANS

